

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X		
SIDNEY MANES, Administrator of the Estate)	
of HECTOR RIVAS,)	
)	
Plaintiff,)	
)	
- against -)	No. 19 Civ. 844 (BKS) (TWD)
)	
ONONDAGA COUNTY, <i>et al.</i> ,)	
)	
Defendants.)	
-----X		

DECLARATION OF ROBERT RICKNER IN CONNECTION
WITH THE DEFENDANTS' MOTIONS FOR SUMMARY
JUDGMENT AND FED. R. CIV. PROC. 12(b)(6)

ROBERT RICKNER declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, as follows:

1. I am the founding member of Rickner PLLC. Together with Joshua Moskovitz, Esq. and Scott A. Korenbaum, Esq., we represented Sidney Manes, until his recent passing, in his capacity as Executor of the Estate of Hector Rivas. I submit this declaration in connection with the motions for summary judgment of defendants William Fitzpatrick and Erik Mitchell, and the motion of Onondaga County, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

2. On or about June 25, 2021, plaintiff served Requests for Admissions upon defendant Onondaga County. I annex as Exhibit 1 a copy of the County's response to the Requests for Admissions.

3. I annex as Exhibit 2 a copy of the Weather History for Syracuse, NY, for March 30, 1987.

4. In their efforts to overturn his conviction, Hector Rivas' attorneys retained the

services of Cyrus Wecht, M.D. Dr. Wecht submitted an affidavit in connection with Mr. Rivas' post-conviction efforts. I annex as Exhibit 3 a copy of Dr. Wecht's report.

5. Plaintiff retained Daniel Spitz, M.D. to provide expert witness testimony. I annex as Exhibit 4 a copy of Dr. Spitz's Rule 26(a)(2)(B) report.

6. On August 15, 2024, defendants conducted the deposition of Dr. Spitz. I annex as Exhibit 5 excerpts from the Spitz deposition.

7. I annex as Exhibit 6 a copy of a note prepared by Peter Tynan, Fitzpatrick's Chief Investigator in the District Attorney's Office, reflecting a conversation he had with Mitchell. This document was marked as Exhibit 35 during the Tynan Deposition.

8. I annex as Exhibit 7 a copy of an article that appeared in the October 31, 1987 edition of The Post-Standard regarding the County Medical Examiner's Office entitled "'Turmoil' in the Medical Examiner's Office."

9. I annex as Exhibit 8 a copy of an article that appeared in the December 1, 1988 edition of the Syracuse Herald-Journal entitled "Lawyer wants killer's sentenced delayed."

10. I annex as Exhibit 9 a copy of an article that appeared in the April 24, 1992 edition of the Syracuse Herald-Journal entitled "Former morgue worker charged."

11. I annex as Exhibit 10 a copy of a memorandum, dated March 15, 1993, from Chief Deputy County Attorney Diane E. Tucker to County Executive Nicholas J. Pirro, regarding Cooperation with Medical Examiner Investigation.

12. I annex as Exhibit 11 copies of excerpts produced by the New York State Department of Health, pursuant to subpoena, relating to investigations it conducted into complaints of professional misconduct filed about Mitchell. I note that the DOH files are

covered by an order of confidentiality and will be filed under seal.

13. I annex as Exhibit 12 a copy of the expert witness report prepared by David A. Rigne, M.D., provided in the Matter of Walid Daniel.

14. I annex as Exhibit 13 a copy of the Affidavit of William R. Sawyer, sworn to December 26, 2007, in the matter of State of New York v. Walid Daniel, Supreme Court, Onondaga County, Index No. 10661-04. In his affidavit, Dr. Sawyer details repeated acts of misconduct on the part of Mitchell when they worked together for Onondaga County.

15. I annex as Exhibit 14 a copy of an article that appeared in the March 3, 1993 edition of The Post-Standard entitled “Doctors Rebuke Medical Examiner.”

16. I annex as Exhibit 15 a copy of an article that appeared in the March 6, 1993 edition of The Post-Standard entitled “Medical Examiner Calls Critics Liars.”

17. I annex as Exhibit 16 excerpts from Fitzpatrick’s closing argument delivered during the trial of Hector Rivas.

18. I annex as Exhibit 17 a copy of the transcript of the April 6, 2016 oral argument before the United States Court of Appeals for the Second Circuit in *Rivas v. Fischer*, Docket No. 13-2974-pr.

Dated: New York, NY
January 13, 2025

_____/s_____
Robert Rickner